

Message Text

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ACTION EUR-12

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INFO AMEMBASSY BERLIN

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C O N F I D E N T I A L SECTION 01 OF 02 LONDON 00830

E.O. 11652: XGDS-1

TAGS: PFOR, GE

SUBJECT: CONSULAR NEGOTIATIONS

REF: STATE 007052, LONDON 541

1. THIS TELEGRAM REPORTS ON TWO SEPARATE CONVERSATIONS EMBOFFS HELD WITH FCO OFFICIALS ON UK/GDR CONSULAR CONVENTION JANUARY 16. FCO OFFICIALS CONSULTED WERE HEAD OF NATIONALITY AND TREATY DEPARTMENT, WHO WAS ACCOMPANIED IN MEETING BY FCO REPRESENTATIVE WHO HAD TAKEN PART IN TWO MEETINGS HELD WITH GDR NEGOTIATING TEAM, AND FCO OFFICIAL ON POLITICAL SIDE WHO HAS BEEN FOLLOWING NEGOTIATIONS CAREFULLY OVER LAST MONTHS. WHILE FCO OFFICIALS WERE OPEN IN DISCUSSING THEIR NEGOTIATIONS, THEY ALSO EXPRESSED CONSIDERABLE SENSITIVITY LEST THEIR COMMENTS REACH EITHER GDR OR FRG OFFICIALS INADVERTENTLY, AND THEY ASKED THAT THEIR COMMENTS BE STRICTLY PROTECTED.

2. AT THE TIME FCO WAS NEGOTIATING WITH GDR ON OPENING OF EMBASSIES OVER A YEAR AGO, HMG AND GDR HAD AGREED TO WORK OUT A CONSULAR CONVENTION AS SOON AS POSSIBLE.

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INITIAL MEETING WITH GDR WAS HELD THEREFORE IN EAST

BERLIN IN SPRING OF 1974 (MAY) AT WHICH TIME UK AND GDR DRAFTS WERE EXCHANGED. THERE WERE, OF COURSE, MARKED DIFFERENCES IN THE DRAFTS, BUT UK DRAFT WAS BASED TO CONSIDERABLE EXTENT ON SIMILAR CONVENTIONS IT HOLDS WITH ALL OTHER EASTERN EUROPEAN COUNTRIES WITH EXCEPTION OF ALBANIA. GDR DRAFT HAD INCLUDED DEFINITION OF GERMAN CITIZENSHIP, WHICH BRITISH FOUND IN CONTRAVENANCE WITH THEIR CONSULAR CONVENTION WITH FRG. SUBSEQUENT MEETINGS WERE THEREFORE SCHEDULED FOR NOVEMBER 1974 WITH INTERVENING CONSULTATIONS BETWEEN HMG AND FRG OVER THIS POINT. FRG HAD RESERVATIONS ABOUT CITIZENSHIP DEFINITION PROPOSED.

3. AT NOVEMBER MEETING UK HAD ASKED THAT GDR WITHDRAW CITIZENSHIP DEFINITION GDR HAD PROPOSED, WHICH WOULD HAVE REQUIRED BRITISH TO RECOGNIZE AS EAST GERMAN CITIZEN "EVERY PERSON WHO IN ACCORDANCE WITH THE LAW OF GDR IS A CITIZEN OF GDR." FRG HAD AGREED TO THIS BRITISH PROPOSAL SINCE FRG CONCEPT OF GERMAN NATIONALITY WAS BASED ON 1913 LAW EMBODIED IN UK/FRG CONVENTION. IN NOVEMBER, GDR TEAM, HEADED BY MR. KOLBES, HAD REPORTED THEY WOULD HAVE TO ASK FOR INSTRUCTIONS FROM EAST BERLIN. SUBSEQUENTLY, INSTRUCTION HAD BEEN FORCEFULLY STATED REQUIREMENT FOR MAINTENANCE OF CITIZENSHIP DEFINITION. BRITISH COUNTERPROPOSAL HAD THEN BEEN TENTATIVELY TO ACCEPT CLAUSE IN CONVENTION WITH ISSUANCE OF A FORMAL, ORAL STATEMENT THAT BRITISH SIGNATURE WAS NOT TO BE INTERPRETED AS CONTRARY TO CLAUSES IN FRG CONVENTION. AFTER SEEKING FURTHER INSTRUCTIONS FROM EAST BERLIN, HEAD OF GDR NEGOTIATING TEAM THEREUPON MADE SHORT, FORMAL DEMURRAL TO THE EFFECT THAT GDR WOULD NOT BE BOUND BY ORAL STATEMENTS MADE IN CONNECTION WITH THE CONVENTION BY HMG AND WOULD RESTRICT ITS INTERPRETATION OF THE CITIZENSHIP QUESTION TO THE CONVENTION.

4. BRITISH ARE NOW SEEKING FRG ENDORSEMENT OF THIS STATUS AND BELIEVE FRG MAY AGREE. IF THIS SHOULD BE THE CASE, A FINAL ROUND OF TALKS WILL PROBABLY BE HELD IN EAST BERLIN TO PUT CONVENTION INTO FINAL FORM PROBABLY NO EARLIER THAN EARLY MARCH.

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5. GDR/UK TALKS HAVE, OF COURSE, BEEN "BLIGHTED" BY BALANTYNE AFFAIR. THIS HAS HIGHLIGHTED BRITISH INSISTENCE ON CONSULAR ACCESS PROVISIONS IN THE CONVENTION, WHICH AS PRESENTLY STATED, REQUIRE NOTIFICATION OF DETENTION OR ARREST WITHIN THREE DAYS AND CONSULAR ACCESS IN FOUR DAYS. BRITISH WOULD ALSO LIKE TO HAVE CONSULAR VISITATION FOR PRISONERS ONCE A MONTH, BUT MIGHT AGREE

FOR VISITATION EVERY OTHER MONTH. BRITISH EXPECT THAT GDR MIGHT ULTIMATELY BE WILLING TO AGREE.

6. BALANTYNE AFFAIR ALSO HAS INTRODUCED QUESTIONS RELATED TO CONSULAR ATTENDANCE AT TRIALS HELD IN CAMERA. XGDS-1

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DURING BALANTYNE TRIAL BRITISH PRESENCE WAS DENIED AND BRITISH INITIALLY WISHED TO INSIST ON CONSULAR ATTENDANCE. IT IS CONCEIVABLE, HOWEVER, THAT BRITISH MAY NOT INSIST ON THIS IN LATER NEGOTIATIONS SINCE THEY MAY WISH TO AVOID GDR ATTENDANCE AT ESPIONAGE OR SECURITY TRIAL HELD IN CAMERA IN UK.

7. FURTHER CONSIDERATION BRITISH HAVE IS HANDLING OF ACTUAL OR POTENTIAL DEFECTOR CASE, WHICH MIGHT INVOLVE DETENTION ON BOARD GDR VESSEL IN BRITISH HARBOR. BRITISH HAD SIMILAR INSTANCE WITH ANOTHER EASTERN EUROPEAN COUNTRY WHICH RESULTED IN FLURRY OF DIPLOMATIC NOTES. RATHER THAN ATTEMPTING TO COVER POTENTIAL INCIDENT OF THIS TYPE IN CONVENTION, BRITISH PLAN SIMPLY TO MAKE SURE NOTHING IN THE CONVENTION WILL PRECLUDE THEIR TAK-

ING APPROPRIATE ACTION SHOULD A SIMILAR EAST GERMAN CASE
ARISE.

8. FCO REPRESENTATIVES ASKED FOR ANY INFORMATION EMB-
OFFS COULD PROVIDE REGARDING US/GDR TALKS AND PROMISED
TO KEEP US INFORMED ON THEIR OWN PROGRESS. FCO WOULD,
WE ASSUME, PROVIDE FURTHER USEFUL INFORMATION ON GDR
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